

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

VIVIAN RANKIN)	Case No.
APT 8)	
1200 Michigan Ave)	
Columbus, OH 43201-3392)	
)	JUDGE:
Plaintiff,)	
)	<u>CLASS ACTION COMPLAINT</u>
v.)	
)	JURY DEMAND ENDORSED HEREON
ASHRO)	
3650 Milwaukee St)	
Madison, WI 53714-2399)	
)	
Defendant.)	

NOW COMES Plaintiff Vivian Rankin ("Rankin"), by and through counsel, and for her Complaint against Defendant Ashro ("Defendant") states as follows:

PARTIES, JURISDICTION AND VENUE

- 1) Rankin is an adult who lives in Franklin County, Ohio.
- 2) Rankin is a consumer as defined by the Telephone Consumer Protection Act ("TCPA").
- 3) Rankin is a consumer as defined by the Ohio Consumer Sales Practices Act ("CSPA").
- 4) Defendant is a supplier as defined by the CSPA.
- 5) Rankin's alleged debt arose out of a transaction that was primarily for personal, family, or household purposes.
- 6) Defendant, located in Wisconsin, mailed Rankin the Spring 2013 edition of Defendant's catalog ("catalog"), sold Rankin merchandise, and ultimately made numerous phone calls to Rankin's cell phone regarding collection of payment.

7) This Court has jurisdiction and venue because some or all of Rankin's claims for relief arose in Franklin County.

STATEMENT OF FACTS

8) Defendant mailed Rankin the Spring 2013 edition of Defendant's catalog ("catalog").

9) Rankin ordered clothing from Defendant on or about June 12, 2013, comprising Order No. 13 83336728. *See* Statement of Account ("Exhibit A"), incorporated herein by reference.

10) Rankin returned merchandise to Defendant valued at \$169.95 that was received by Defendant on or about June 27, 2013. *See* Exhibit A.

11) Rankin placed a second order with Defendant on or about July 3, 2013, which was Order No. 14 83401648. *See* Exhibit A.

12) After Rankin received the merchandise ordered from Defendant, she continued to pay to Defendant on a monthly basis the \$25 amount stated in Defendant's offer, however Defendant continued to send Rankin numerous notices stating that her account was past due, and demanding payment of various amounts. An example of one such notice is attached hereto as Exhibit B, and is incorporated herein by reference.

CLASS ACTION ALLEGATIONS

13) Rankin brings all claims as class claims pursuant to Civ.R. 23.

14) The class consists of all Ohio consumers who purchased clothing or other goods from Defendant on terms of credit that were deceptive, predatory, or unlawful, as well as those Ohio consumers whom Defendant contacted in violation of the TCPA or CSPA.

15) At this time, Rankin does not know the size of the class, but believes the potential class members can be determined through discovery.

16) There are questions of law and fact common to the proposed class, including:

- (a) Whether the Defendant violated the Ohio Consumer Sales Practices Act in its dealings with its customers who are residents of Ohio;
- (b) The false representations by Defendant about the terms of its offer of credit;
- (c) The false representations made by Defendant regarding the amount of the monthly payments to be made by customers to Defendant to keep the customers' accounts "current;"
- (d) The offering of payment or credit terms and the provision of other offers by Defendant to Ohio customers it knew or should have known had no ability to pay under the terms offered;
- (e) The assessment of processing, late, and other hidden fees, penalties and charges against customers' accounts that were not disclosed to customers when they made their purchases;
- (f) The failure of Defendant to clearly and conspicuously state the exclusions, reservations, limitations, modifications, or conditions in close proximity to the words stating its offer of credit and other offers;

17) Defendant's catalog included the offer "Buy up to \$400.00 and pay only \$25 a month." See Photocopy of Catalog Page 3, incorporated herein as Exhibit C.

18) The catalog included statements such as "(See terms of credit and pre-approved offer on the back of the order form.)" and "You can choose to stop receiving 'pre-screened' offers of credit from this and other companies by calling toll free 888-567-8688. See

PREScreen & OPT-OUT NOTICE on the back of the center order form for more information about prescreened offers.” And “*See **easy payment** terms on the order form.” (Emphasis sic.);

19) Defendant included these printed statements in their catalog, but knowingly, failed to include any order form or other document stating credit or offer terms along with its catalog;

20) The actions by Defendant are believed to be a pattern and practice in conscious disregard of Plaintiffs’ rights.

COUNT ONE
VIOLATIONS OF CONSUMER SALES PRACTICES ACT

21) Rankin incorporates by reference paragraphs 1 through the preceding paragraph as fully stated herein.

22) Following her purchases from Defendant, Rankin continued to pay the agreed upon \$25 per month;

23) Defendant used deceptive billing practices to assess Rankin finance charges and “adjustments” totaling at least \$207.09 as of September 29, 2014.

24) Rankin’s statement of account shows that she paid at least \$87.09 in “finance charges” between July 26, 2013, and September 29, 2014.

25) Rankin’s statement of account shows that between July 26, 2013 and September 29, 2014, Defendant charged Rankin \$15 per month, or a total of \$120, in “adjustments.”

26) Each “adjustment” was made within six (6) days of each of Rankin’s \$25 monthly payments to Defendant.

27) Defendant sent Rankin a catalog referencing an order form that contained the terms and conditions of offers in the catalog, however, there was no order form included with the

catalog and the terms and conditions of the offer were not available to Rankin elsewhere in the catalog or another accessible source.

28) To the extent Defendant ever informed Rankin of any of the exclusions, reservations, limitations, modifications, and conditions associated with Defendant's offers and Rankin's account, such notification occurred after Rankin already made purchases from Defendant.

29) Defendant's offers, payment terms, and billing practices violated R.C. 1345.02(A) and R.C. 1345.02(B)(10).

30) Defendant committed unfair and deceptive practices which violate the Consumer Sales Practices Act and Ohio Administrative Code ("OAC") Chapter 109:4-3 Deceptive Acts or Trade Practices in Connection with Consumer Transactions.

31) Defendant violated OAC 109:4-3-02(A)(1) by failing to clearly and conspicuously state, in close proximity to its terms of credit and related offer for the purchase of clothing, the exclusions, reservations, limitations, modifications, and conditions of its terms of credit and related offer for the purchase of clothing.

32) Defendant violated OAC 109:4-3-02(C) because its statement of exclusions, reservations, limitations, modifications, or conditions did not appear in close proximity to either the offer itself or to an asterisk or other symbol.

33) Defendant's conduct violated OAC 109:4-3-03(B)(2) because the catalog included false inducements on its cover, and because the terms of its credit offer differed

materially from the printed terms Defendant used to induce Rankin to purchase goods from Defendant.

34) Defendant's conduct violated OAC 109:4-3-11(A)(3) because Defendant's offers to Rankin were calculated to give her the impression that she had been specially selected to receive Defendant's offers.

COUNT TWO
TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227

35) Defendant used an automatic dialing system to make phone calls to Rankin's cellular phone without her consent.

36) Defendant used an artificial or prerecorded voice to leave a debt collection communication on the voicemail of Rankin's cellular phone.

37) Rankin did not give Defendant or Defendant consent to call her cell phone.

38) The actions by Defendant have caused Rankin aggravation, humiliation, embarrassment, loss of privacy, strain on personal relationships, loss of enjoyment of life, sleepless nights, worry and anxiety.

39) Defendant violated the Telephone Consumer Protection Act by using an artificial or prerecorded voice message to leave its call back number on the voicemail for Rankin's cellular phone without her express prior consent.

40) Defendant willfully or knowingly made more than one call by an automated dialing system to Rankin's cell phone knowing that it was without consent.

41) Defendant's calls to Rankin's cell phone were of a pervasive and harassing nature.

42) Defendant's calls to Rankin's cell phone continued after she expressly informed Defendant or its agents to stop calling her cell phone.

43) Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by making calls to Rankin's cellular phone and Rankin is entitled to an award of \$500 statutory damages for each and every violation.

44) If the Court finds that Defendant willfully or knowingly violated the TCPA then the Court may award treble damages per violation.

COUNT THREE
INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

45) Rankin incorporates by reference paragraphs 1 through the preceding paragraph as though fully stated herein.

46) Defendant intentionally interfered, physically or otherwise, with the solitude, seclusion, or private concerns or affairs of Rankin.

47) On multiple occasions Defendant made phone calls to Rankin's cellular phone without her consent.

48) Rankin had a reasonable expectation of privacy in her solitude, seclusion, or private concerns or affairs.

49) The intrusion by Defendant occurred in a way that would be highly offensive to a reasonable person in that position.

50) Defendant invaded the Rankin's privacy.

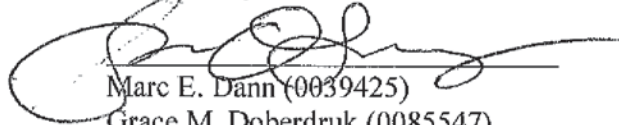
51) Defendant repeatedly harassed Rankin over an alleged debt.

52) Rankin was seriously damaged and is entitled to damages, costs and attorneys fees.

WHEREFORE, Plaintiff Vivian Rankin prays for the following relief:

- a) statutory and compensatory damages under the Consumer Sales Practices Act;
- a) statutory damages under the Telephone Consumer Protection Act and treble damages if the Court finds that Defendant willfully or knowingly violated the Telephone Consumer Protection Act;
- b) attorney fees and costs; and
- c) any other relief this Honorable Court deems appropriate.

Respectfully submitted,



Marc E. Dann (0039425)

Grace M. Doberdruk (0085547)

Samuel T. O'Leary (0091382)

THE DANN LAW FIRM

P.O. Box 6031040

Cleveland, Ohio 44103

216-373-0539 Telephone

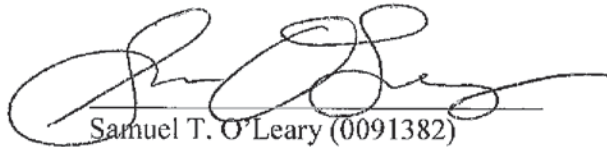
216-373-0536 Fax

notices@dannlaw.com

Attorneys for Plaintiff Vivian Rankin

Jury Demand

Plaintiff hereby requests a trial by jury on all issues, with the maximum number of jurors permitted by law.



Samuel T. O'Leary (0091382)

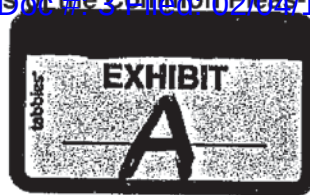
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Order Acknowledgment

Page 1

Case: 2:13-cv-00493-LAS-NMK Doc 13 Filed 02/04/15 Page 7 of 8

ASHRO

P O BOX 8951
MADISON WI 53708-8951

This is a copy of your order.

Your complete order may not arrive as one shipment. In some cases, items may be shipped in separate boxes on different days.

Remember, your satisfaction is guaranteed. It's that simple.

ORDER NO.

DATE

**** Copy **

09/29/14

VIVIAN RANKIN
APT 8
1200 MICHIGAN AVE
COLUMBUS OH 43201-3392

ASHRO®

Thank You

833367280221303004325700000002

RECIPIENT'S NAME AND ADDRESS	QTY.	GIFT NO.	DESCRIPTION	UNIT PRICE	AMOUNT
VIVIAN RANKIN 1200 MICHIGAN AVE APT 8 COLUMBUS OH 43201-3392					
	1	PB27413	AJA DRESS/14	169.95	169.95
	1	PB29782	CHARCHZ TOP/S-L/ANML	24.95	24.95
	1	PB29782	CHARCHZ TOP/S-L/BLUE-	24.95	24.95
	1	PB29782	CHARCHZ TOP/S-L/GRN M	24.95	24.95
	1	PB29782	CHARCHZ TOP/S-L/VERMI	24.95	24.95
	1	PB29918	EBONY DRESS/14	119.95	119.95
=====					
ORDER NO. = 13 83336728 06/12/13			Total Amount of Gifts		389.70
			Total Shipping/Processing		42.87
			Total Amount of Order		432.57
=====					
			Credit Order 83336728 06/27/13 # 097988		169.95
*** Additional Order *** VIVIAN RANKIN					
	1	PB25169	GLOETTA SHORT CAFTAN	17.95	17.95
	1	PB25537	DAHNYA CAFTAN	24.95	24.95
	1	PB26553	OKELANI SHORT CAFTAN	17.95	17.95
	1	PB27750	GODDESS CAFTAN	19.95	19.95
	1	PB29884	TAMAR CAFTAN	24.95	24.95
	1	PB29885	NAIA SHORT CAFTAN	19.95	19.95
	1	PB29887	GODDESS SHORT CAFTAN	17.95	17.95
ORDER NO. = 14 83401648 07/03/13			Total Amount of Gifts		143.65
			Total Shipping/Processing		20.95
			Total Amount of Order		164.60

ASHRO

PO BOX 8951

MADISON WI 53708-8951

www.ashro.com

0C236



P.O. BOX 8951
MADISON WI 53708-8951

ORDER NO.

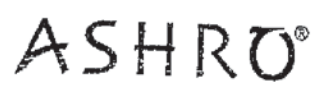
**** Copy **

DATE

09/29/14

VIVIAN RANKIN
APT 8
1200 MICHIGAN AVE
COLUMBUS OH 43201-3392

This is a copy of your order.
Your complete order may not arrive as one shipment. In some cases, items may be shipped in separate boxes on different days.
Remember, your satisfaction is guaranteed. It's that simple.



Thank You

833367280221303004325700000002

RECIPIENT'S NAME AND ADDRESS	QTY.	GIFT NO.	DESCRIPTION	UNIT PRICE	AMOUNT
			Accounts Receivable Activity		
			Order Under Pay		
			06/12/13 Order Purchases		432.57
			06/26/13 Credit		169.95-
			07/03/13 Order Purchases		164.60
			07/09/13 Payment		25.00-
			07/26/13 Finance Charge		4.93
			08/07/13 Payment		25.00-
			08/27/13 Finance Charge		7.76
			09/05/13 Payment		25.00-
			09/27/13 Finance Charge		7.37
			10/05/13 Payment		25.00-
			10/28/13 Finance Charge		7.01
			11/04/13 Payment		25.00-
			11/27/13 Finance Charge		6.64
			12/05/13 Payment		25.00-
			12/27/13 Finance Charge		6.29
			01/06/14 Payment		25.00-
			01/27/14 Finance Charge		5.94
			02/03/14 Payment		25.00-
			02/06/14 Adjustment		15.00
			02/27/14 Finance Charge		5.52
			03/04/14 Payment		25.00-
			03/10/14 Adjustment		15.00
			03/27/14 Finance Charge		5.37
			04/04/14 Payment		25.00-
			04/07/14 Adjustment		15.00
			04/28/14 Finance Charge		5.29
			05/02/14 Payment		25.00-
			05/08/14 Adjustment		15.00
			05/27/14 Finance Charge		5.18

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ASHRO

P O BOX 8951
MADISON WI 53708-8951

ORDER NO.

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VIVIAN RANKIN
APT 8
1200 MICHIGAN AVE
COLUMBUS OH 43201-3392

Order Acknowledgment

Page 3

Franklin County Clerk of Courts of the Common Pleas 304 Dec 30 6:00 PM MCH0360188
Case: 2:15-cv-00183-EAS-JMP Doc #: 3 Filed: 02/04/13 Page: 1 of 1

This is a copy of your order.
Your complete order may not arrive as one shipment. In some cases, items may be shipped in separate boxes on different days.

Remember, your satisfaction is guaranteed. It's that simple.

DATE

09/29/14

ASHRO®

Thank You

833367280221303004325700000002

RECIPIENT'S NAME AND ADDRESS	QTY.	GIFT NO.	DESCRIPTION	UNIT PRICE	AMOUNT
			06/02/14 Payment		25.00-
			06/06/14 Adjustment		15.00
			06/27/14 Finance Charge		5.09
			07/03/14 Payment		25.00-
			07/07/14 Adjustment		15.00
			07/28/14 Finance Charge		5.00
			08/06/14 Payment		25.00-
			08/07/14 Adjustment		15.00
			08/27/14 Finance Charge		4.91
			09/02/14 Payment		25.00-
			09/06/14 Adjustment		15.00
			09/29/14 Finance Charge		4.79
			Balance Due		259.31

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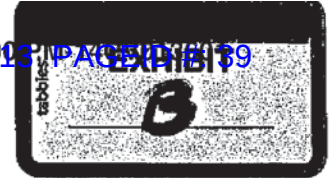
PO BOX 8951

MADISON WI 53708-8951

www.ashro.com

ASHRO

3650 Milwaukee St
Madison, WI 53714-2399



VIVIAN RANKIN
APT 8
1200 MICHIGAN AVE
COLUMBUS OH 43201-3392

9989016951220
03/12/2014

VIVIAN RANKIN

YOUR ACCOUNT IS:

PAST DUE
\$10.00

PLEASE PAY AT ONCE.

Sincerely,
ASHRO LIFESTYLE

W2

EXHIBIT
C

ASHRO®

CREDIT

BUY NOW, PAY LATER!

ENJOY LOW MONTHLY PAYMENTS!

Buy up to

\$400.00

AND
PAY ONLY **\$25** A MONTH

(See terms of credit and pre-approved offer on the back of the order form.)



ASHRO
CREDIT

MS VIVIAN RANKIN
Account No. (example)
9999 9999 99

Offer Valid Thru
5/13

Card issued only after your account is opened.

- No annual fees
- Credit line increases
- Low monthly payments
- Friendly, knowledgeable customer service
- Secure & confidential account management online

CALL TODAY:
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WWW.ASHRO.COM

MAIL YOUR
ORDER FORM

You can choose to stop receiving "prescreened" offers of credit from this and other companies by calling toll free 888-367-8688. See PREScreen & OPT-OUT NOTICE on the back of the center order form for more information about prescreened offers.